

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

DATE: September 28, 2010

JUDGE
LEONARD DAVIS

REPORTERS: Shea Sloan & Judy Werlinger

LAW CLERKS: Kori Anne Bagrowski

MIRROR WORLDS, LLC V APPLE, INC.	CIVIL ACTION NO: 6:08-CV-88 JURY TRIAL - DAY 2
ATTORNEYS FOR PLAINTIFFS Ken Stein (Strook & Stroock & Lavan) Ian Dibernardo (Strook & Stroock & Lavan) Alex Solo (Strook & Stroock & Lavan) Joe Diamante (Strook & Stroock & Lavan) Otis Carroll (ICK Law Firm) David Gelernter, Inventor	ATTORNEY FOR DEFENDANT Jeff Randall (Paul Hastings Janofsky & Walker) Allan Soobert (Paul Hastings) Christian Platt (Paul Hastings) Bud Tribble, Client Representative

On this day, came the parties by their attorneys and the following proceedings were had:

OPEN: 8:55 am

ADJOURN: 5:30 pm

TIME:	MINUTES:
8:55 am	Jury not present in the Courtroom.
	Court addressed the parties on Apple's Motion for Waiver of Attorney Client Privilege (Docket #394), which was filed at 4:20 a.m.. Court advised the parties of the 8:00 p.m. Rule and directed parties to file anything they want taken up by 8:00 p.m.
	Mr. Stein addressed the Court on Apple's motion and has not had sufficient time to review. Court will take up later in the day.
	Mr. Soobert addressed the Court on objections to demonstratives and pointed to the slide regarding Intellectual Ventures's being partially owned by Apple. Mr. Soobert asked for slide to be excluded or language regarding the Intellectual Ventures. Court ordered that the language "partially owned by Apple" be taken off the slide and parties could bring up on direct and cross.

DAVID J. MALAND, CLERK

FILED: 9.28.2010

BY: Rosa L. Ferguson, Courtroom Deputy

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TIME:	MINUTES:
	Mr. Soobert addressed the Court on issue Dr. Levy with a number of demonstrative slides referencing source codes. Mr. Stein responded that Dr. Levy stated in report that he relied on source code. No specific source code. Testify consistent with what's in his report. Mr. Soobert asked for the relief and has a list. Court asked parties to confer. Court asked Jury to be brought in.
	Jury seated in the courtroom. Court addressed the Jury and welcomed them back. Court inquired if parties have exhibits to offer.
	Mr. Carroll offered all exhibits listed on Plaintiff's List of Exhibits Admitted on September 28, 2010, which is Marked as Plaintiff's Exhibit List #1. Mr. Soobert objected to Plaintiff's Exhibit List #1183. Court admitted all exhibits on List, except Exhibit #1183. <u>Plaintiff's Exhibit List #1</u> lists Plaintiff's Exhibits #1, 6, 11, 57, 83-89, 109, 110, 113, 116-119, 130, 131, 156, 191-193, 220, 221, 290, 298, 336, 338, 344, 386-395, 398, 669, 696, 730, 731, 773, 893, 933, 970, 983, 1136, 1183 (objected to and not admitted), 1184, 1191, 1660, 1676, 1684; and, Defendant's Exhibit #135, 165, 170, 175, 176, 181, 184, 185, 197, 199, 201, 203, 282, 291, 294, 352, 353-357, 360, 378, 382, 387, 388, 430, 471, 495, 499, 502, 504, 511, 512, 517, 519, 520, 522, 525, 554, 555, 562, 563, 569, 572, 573, 582, 588, 589, 774, 777, 818, 922, 1007.
	Mr. Soobert offered all exhibits listed on Defendant's List of Exhibits Admitted on Monday, September 27, 2010, and without objection exhibits admitted. Said list marked as <u>Defendant's Exhibit List #1</u> , and lists Defendant's Exhibits #1, 3, 4, 5, 7, 98, 99, 120-122, 125, 169, 171, 175, 176, 182, 185, 187, 190, 196, 199-201, 219, 225, 329, 344, 356, 368, 374, 375, 377, 378, 382, 411, 414, 473, 498, 499, 506, 511, 512, 582, 642, 646, 663, 664, 687, 691, 697, 718, 724, 740, 743, 745, 746, 753, 777, 789-791, 793, 794, 823, 831, 854, 918, 931, 947, 971, 1026, 1027, 1120, 1043, 1126, 1131.
	Mr. Carroll called MICHAEL SATOW to the witness stand. Witness sworn by the Clerk.
	Direct examination of Mr. Satow by Mr. Carroll. Mr. Carroll offered Plaintiff's Exhibit #1183, and with objection being overruled, Plaintiff's Exhibit #1183 admitted.
	Mr. Carroll passed the witness. Cross examination of Mr. Satow by Mr. Randall.
	Mr. Randall passed the witness. No further questions of this witness.
10:55 am	Court in recess until 11:10 a.m.
11:10 am	Trial resumed. Jury seated in the jury box.
	Court inquired of the Jury their preference on getting in more time. Jurors advised that they would rather have shorter lunches and to stay later instead of coming in earlier.
	Court addressed the Jury and will go until 12:00 and have 1 hour for lunch. – lunch for tomorrow will be provided.
	Mr. Carroll called DON LINDSEY by written deposition. Court informed the jury on deposition testimony. Mr. Carroll will ask questions and Mr. Kelley will respond. By agreement, Mr. Carroll will also read Apple's designations.
12:05	Court in recess until 1:00 pm

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TIME:	MINUTES:
1:30 pm	Trial resumed. Jury seated in the courtroom. Court apologized to the Jury for the delay and advised that the Court another matter that took longer than usual.
	Mr. Kelley addressed the Court on the times for the last deposition.
	Mr. Kelly called BERTRAND SERLET by written deposition. Mr. Kelley will ask questions and Mr. Chuck Cantine will respond.
	Mr. Dibernardo called DR. JOHN LEVY to the witness stand. (Witness previously sworn).
	Mr. Randall asked to approach the bench. (Bench Conference held).
2:10 pm	Court in recess until 2:20 pm.
2:30 pm	Jury not present in the courtroom.
	Mr. Carroll addressed the Court regarding Dr. Levy's report. Mr. Randall responded. Court reversed earlier ruling. Mr. Dibernardo addressed the Court. Court stands by its ruling.
	Court asked for the Jury to be brought in. Jury seated in the courtroom.
	Court inquired if times have been worked out on the depositions. Mr. Diamante responded they are still working on it.
	DR. JOHN LEVY on the witness stand.
	Direct examination of Dr. Levy by Mr. Dibernardo.
4:25 pm	Court in recess for 10 minutes.
4:40 pm	Trial resumed. Jury seated in the courtroom.
	Direct examination of Dr. Levy by Mr. Dibernardo continued.
	Mr. Dibernardo passed the witness.
5:25 pm	Court addressed the Jury and inquired if the jury could be here at 8:30 a.m. One Juror responded that she could not. Court will recess them until 9:00 a.m tomorrow. Court reminded Jury of its instructions. Jury excused from the Courtroom.
	Jury not present in the courtroom.
	Court addressed the parties on the time adjustments for the depositions. Mr. Kelley advised the Court of the percentages and minutes for the 2 depositions.
	Court advised the parties of their times. Plaintiff has used 6:43 and Defendant has used 3:32.
	Mr. Randall addressed the Court on the Motion regarding the waiver. Plaintiff will file a response by 8:00 pm this evening. Court will take up tomorrow.
	Court asked to see lead and local counsel in chambers.
5:30 pm	There being nothing further, court adjourned for the day.